

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**ALFONSO AMELIO and CARMINE
AMELIO,**

Plaintiffs,

-against-

**MCCABE, WEISBERG & CONWAY, P.C.;
FEIN, SUCH & CRANE LLP; SETERUS,
INC.; OCWEN LOAN SERVICING, LLC;
ONEWEST BANK, N.A.; QUICKEN LOANS,
INC.; FEDERAL NATIONAL MORTGAGE
ASSOCIATION; CONCRETE
PROPERTIES, LLC; and SANDELANDS
EYET LLP,**

Defendants.

1:19-CV-08761 (ALC)

ORDER

ANDREW L. CARTER, JR., United States District Judge:

The Court is in receipt of Plaintiffs’ filing dated December 19, 2023, ECF No. 220, requesting a pre-motion conference to move for Rule 11 sanctions, discovery, and for their pending motion for reconsideration. The Court is also in receipt of Defendants’ letters in opposition of Plaintiffs’ requests, ECF Nos. 221-224.

Plaintiffs’ request for a pre-motion conference regarding their motion for reconsideration, ECF No. 192, is hereby **DENIED**. The reconsideration motion is fully briefed and pending before this Court.

Plaintiffs request a pre-motion conference in anticipation of their motion for sanctions. Plaintiffs contend that Defendants’ argument in opposition to the motion for reconsideration that the reconsideration motion was not timely filed pursuant to FRCP 59(e) is frivolous and sanctionable. Plaintiffs’ pre-motion conference request is not warranted and must also be **DENIED**. Under Fed. R. Civ. P. 11(c), a party “must not be file[] or . . . present[] [a Rule 11 sanctions motion] to the court if the challenged paper, claim, defense, contention, or denial is

withdrawn or appropriately corrected within 21 days after service or within another time the court sets.” Plaintiffs did not grant Defendants the opportunity to take corrective action prior to requesting leave to move for sanction. Defendants’ argument was made in good faith and is not frivolous. In response to Plaintiffs’ contention that Defendants’ argument was frivolous, Defendants Ocwen, Quicken Loans, and Concrete Properties, LLC already withdrew their argument. ECF Nos. 213, 215-218. Therefore, Plaintiffs’ pre-motion conference request to move for sanctions is **DENIED**.

Plaintiffs are not entitled to discovery. This Court granted Defendants’ motions to dismiss Plaintiffs’ Third Amended Complaint ECF No. 190. Plaintiffs’ pre-motion conference request for discovery is **DENIED**.

SO ORDERED.

Dated: December 27, 2023
New York, New York

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge